

**ENTERED**

April 20, 2023

Nathan Ochsner, Clerk

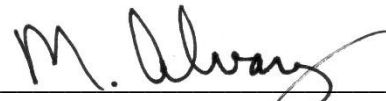
**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION****FRANKLIN SHANE SIMMS,****Plaintiff,****VS.****U.S. CUSTOMS AND BORDER  
PROTECTION, et al.,****Defendants.**§  
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§**CIVIL ACTION NO. 7:22-CV-0316****ORDER ADOPTING REPORT AND RECOMMENDATION**

Before the Court is Plaintiff Franklin Shane Simms's civil rights action, which had been referred to the Magistrate Court for a report and recommendation. On December 14, 2022, the Magistrate Court issued the Report and Recommendation, recommending that Plaintiff's claims be dismissed with prejudice as frivolous and malicious pursuant to 28 U.S.C. § 1915(e)(2)(B).<sup>1</sup> The time for filing objections has passed and no objections have been filed.<sup>2</sup>

Pursuant to Federal Rule of Civil Procedure 72(b), the Court has reviewed the Report and Recommendation for clear error.<sup>3</sup> Finding no clear error, the Court adopts the Report and Recommendation in its entirety. Accordingly, Plaintiff's civil rights action is **DISMISSED** with prejudice as frivolous and malicious pursuant to 28 U.S.C. § 1915(e)(2)(B), and this case is **CLOSED**.

IT IS SO ORDERED.

DONE at McAllen, Texas, this 20th day of April 2023.



Micaela Alvarez  
United States District Judge

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<sup>1</sup> Dkt. No. 6.

<sup>2</sup> *Id.* at 6.

<sup>3</sup> As noted by the Fifth Circuit, "[t]he advisory committee's note to Rule 72(b) states that, '[w]hen no timely objection is filed, the [district] court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Douglas v. United States Service Auto. Ass'n*, 79 F.3d 145, 1420 (5th Cir. 1996) (quoting Fed. R. Civ. P. 72(b) advisory committee's note (1983)) *superseded by statute on other grounds* by 28 U.S.C. § 636(b)(1), *as stated in ACS Recovery Servs., Inc. v. Griffin*, No. 11-40446, 2012 WL 1071216, at \*7 n. 5 (5th Cir. April 2, 2012).